

STATE OF MAINE
Department of Environmental Protection

John Elias Baldacci
GOVERNOR

David P. Littell
COMMISSIONER

May 4, 2010

Mr. Robert Dunbar
Town of Madawaska
328 St. Thomas Street, Suite 101
Madawaska, ME 04756

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0101681
Maine Waste Discharge License (WDL) Application # W002602-6C-F-M
Modification

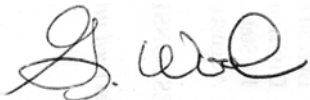
Dear Mr. Dunbar:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **modification** which was approved by the Department of Environmental Protection. Please read the permit/license and its attached conditions carefully. You must follow the conditions in the permit/license to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Wood", is written over a light gray rectangular background.

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Sean Bernard, DEP/NMRO, John True, DEP/CMRO Sandy Mojica, USEPA



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF MADAWASKA)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS)	ELIMINATION SYSTEM PERMIT
MADAWASKA, AROOSTOOK COUNTY)	AND
ME0101681)	WASTE DISCHARGE LICENSE
W002602-6C-F-M)	MODIFICATION
APPROVAL		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the TOWN OF MADAWASKA (Town/permittee hereinafter), with its supportive data, agency review comments, and other related material on file and finds the following facts:

APPLICATION SUMMARY

The Town has submitted an application to the Department for modification of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101681/ Maine Waste Discharge License (WDL) #W002602-5L-E-R ("permit" hereinafter) which was issued by the Department on December 10, 2008 and is due to expire on December 10, 2013. The 12/10/08 permit authorized the discharge of up to a monthly average flow of 0.674 million gallons per day (MGD) of secondary treated sanitary waste water to the St. John River, Class C, in Madawaska, Maine. The 12/10/08 permit also authorized the discharge of untreated combined sanitary and storm water from two (2) combined sewer overflow (CSO) outfalls to the St. John River and its tributaries in Madawaska, Maine.

REQUESTED MODIFICATION

The Town has requested a modification of the schedule of compliance in Special Condition K, *Combined Sewer Overflow (CSO's)*, Section 4, *CSO Master Plan*.

MODIFICATIONS GRANTED

The Department is granting said request based on new information provided by the permittee in a letter dated March 1, 2010. The letter indicates priorities have changed due to changes in funding that warrants a modification of the schedule.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March, 23, 2010, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 MRSa Section 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - c. The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - d. Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges (including the 2 CSO's) will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the application of the TOWN OF MADAWASKA, to modify the schedule of compliance in Special Condition K, *Combined Sewer Overflow (CSO's)*, Section 4, *CSO Master Plan*. The discharges shall be subject to the attached conditions and all applicable standards and regulations including:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached to MEPDES permit #ME0101681/ WDL #W002602-5L-E-R, dated December 10, 2008.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0101681/ WDL #W002602-5L-E-R, dated December 10, 2008, not modified by this permitting action remain in effect and enforceable.
4. **This permit modification expires on December 10, 2013**, concurrent with MEPDES permit #ME0101681/ WDL #W002602-5L-E-R, dated December 10, 2008.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application March 9, 2010.
Date of application acceptance March 10, 2010.

This Order prepared by Gregg Wood, BUREAU OF LAND AND WATER QUALITY
ME0101681 MR 2010 5/4/10

SPECIAL CONDITIONS

K. COMBINED SEWER OVERFLOWS (CSO's)(cont'd)

4. CSO Master Plan (see Sections 2 & 3 of Chapter 570 Department Rules)

The permittee shall implement CSO control projects in accordance with an approved CSO Master Plan entitled, *Town of Madawaska, Maine, CSO Master Plan Submitted to the*, dated September 30, 2009, prepared by Woodard & Curran, as amended by the *Preliminary Engineering Report – CSO Abatement Alternatives*, dated January 14, 2010, prepared by Woodard & Curran, and the *CSO Master Plan Update and Abatement Alternatives PER Proposed Schedule of Project Elements letter*, dated March 1, 2010, prepared by Woodard & Curran. The permittee shall:

On or before December 31, 2012, [PCS Code 04599] the permittee shall complete the upgrade of the Fraser Pump Station, including the relocation of the force main and installation of the emergency generator. These projects are identified as the Fraser Pump Station Area in Table 5-1 of the Preliminary Engineering Report.

On or before December 31, 2012, [PCS Code 04599] the permittee shall complete Phases 1 through 8 of the sewer rehabilitation projects. These projects are identified as Priorities 1 – 8 in Table 5-2 of the Preliminary Engineering Report.

On or before December 10, 2013, [PCS Code 06699] the permittee shall submit to the Department for review and approval a final Updated Master Plan evaluating the effectiveness of the CSO abatement projects completed and if necessary propose future abatement project(s) and schedule to eliminate the wet weather overflows.

To modify the dates and/or projects specified above (but not dates in the Master Plan), the permittee must file an application with the Department to formally modify this permit. The work items identified in the abatement schedule may be amended from time to time based upon approval by the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **March 23, 2010**

PERMIT NUMBER: **ME0101681**
LICENSE NUMBER: **W002602-6C-F-M**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF MADAWASKA
328 St. Thomas Street, Suite 101
Madawaska, Maine 04756**

COUNTY: **Aroostook County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Madawaska Pollution Control
7 Public Works Avenue
Madawaska, Maine 04756**

RECEIVING WATER/CLASSIFICATION: **St. John River/Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Robert Dunbar, Supt.**
(207) 728-3608
biosolid@ncil.net

1. APPLICATION SUMMARY

- a. Application – The Town has submitted an application to the Department for modification of Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101681/ Maine Waste Discharge License (WDL) #W002602-5L-E-R (“permit” hereinafter) which was issued by the Department on December 10, 2008 and is due to expire on December 10, 2013. The 12/10/08 permit authorized the discharge of up to a monthly average flow of 0.674 million gallons per day (MGD) of secondary treated sanitary waste water to the St. John River, Class C, in Madawaska, Maine. The 12/10/08 permit also authorized the discharge of untreated combined sanitary and storm water from two (2) combined sewer overflow (CSO) outfalls to the St. John River and its tributaries in Madawaska, Maine.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description –The waste water treatment facility receives sanitary waste water from approximately 4,600 residential and commercial users in the Town of Madawaska and is permitted to receive up to 4,000 gallons per day of septage from local haulers. “Septage” shall mean any waste, refuse, effluent, sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added.

The Town completed a major upgrade of the waste water treatment facility in 1999. The primary purpose of the upgrade was to abate discharges bypassing the waste water treatment facility by improving preliminary and secondary treatment along with maximizing flows receiving secondary treatment and improving sludge handling and dewatering processes. On 9/22/08, Wright-Pierce Engineers (Topsham, ME) submitted a request to the Department on behalf of the Town asking that the design flow of the facility be increased from 0.600 MGD to 0.674 MGD based on an evaluation of the facility upgrades completed in 1999.

The Town’s collection system is approximately 22 miles in length, has 3 pump stations and has been upgraded to provide for complete separate sewer collection lines from the stormwater catch basin system. The collection system has two combined sewer overflows (CSOs). CSO #002 was active for 17 days discharging a total of 2.6 MG in 2007; CSO #003 was active for 4 days, discharging a total of 0.06 MG in 2007.

2. MODIFICATIONS REQUESTED

The Town has requested a modification of the schedule of compliance in Special Condition K, *Combined Sewer Overflow (CSO’s)*, Section 4, *CSO Master Plan*.

3. MODIFICATIONS GRANTED

The Department is granting said request based on new information provided by the permittee in a letter dated March 1, 2010. The letter indicates priorities have changed due to changes in funding that warrants a modification of the schedule.

4. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

5. RECEIVING WATER STANDARDS

Maine law, 38 M.R.S.A., Section 467(15)(A)(4) indicates the St. John River at the point of discharge is classified as a Class C waterway. Maine law, 38 M.R.S.A., Section 465(4) describes standards for classification of Class C waters.

6. RECEIVING WATER CONDITIONS

The 2008 *Maine Integrated Water Quality Report* published by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act indicates that the St. John River at Madawaska is listed in the table entitled, *Category 5-A: Rivers and Streams Impaired by Bacteria Contamination (TMDL Required)*. The TMDL in the case of the Town of Madawaska is the continued implementation of the Town's CSO Master Plan. It is noted that all fresh waters in the State of Maine are listed in the table entitled, *Category 5-C: Waters Impaired by Atmospheric Deposition of Mercury. Regional or National TMDL May Be Required*, of the 305(b) report. The impairment is the designated use of fishing (consumption) as Maine has a fish advisory due to elevated levels of mercury in fish tissue. See section 6(h) of this Fact Sheet regarding mercury limitations.

7. PUBLIC COMMENTS

Public notice of this application was made in the *St John Valley Times* on or about 3/10/10. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

8. DEPARTMENT CONTACTS

Additional information concerning this permitting action may be obtained from and written comments should be sent to:

Gregg Wood
Maine Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017
e-mail: gregg.wood@maine.gov Tel: (207) 287-7693

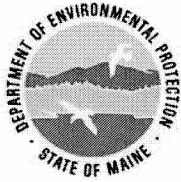
9. RESPONSE TO COMMENTS

During the period of March 23 2010, through the issuance date of this permit modification, the Department solicited comments on the proposed draft permit modification to be issued for the discharge from the Town of Madawaska facility. On March 29, 2010, the permittee submitted a written comment via electronic mail. As a result, the Department has prepared a response to comment as follow:

Comment #1: The permittee's comment is as follows:

In regards to formally modify the MEPES permit for Madawaska Pollution Control I would like to see the Muffin Monster or equal Trash rack addressed along with the backup generator. We must be able to remove the "Flushable wipes" that continue to clog our pumps. The Fraser Pump Station has had 33 clogged pumps from 9/1/09 to 3/22/10. I have been informed that a Mech. Bar Rack will be installed but would like to see it included as a requirement so that it does not get forgotten.

Response #1 –Permits contain effluent limitations, monitoring requirements and narrative conditions to ensure best practicable treatment (BPT) requirements are being attained. The Department does not have the authority to dictate or require specific pieces of equipment or how one achieves attaining the BPT standards. Therefore, the permittee's request to incorporate requirements to install specific equipment is being denied and the permit remains unchanged.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
